

1 ALLEN RUBY (SBN 47109)  
2 RAOUL D. KENNEDY (SBN 40892)  
3 SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP  
4 525 University Avenue, Suite 1400  
5 Palo Alto, CA 94301  
6 Telephone: (650) 470-4500  
7 Facsimile: (650) 470-4570  
8 Allen.Ruby@skadden.com  
9 Raoul.Kennedy@skadden.com

10 Attorneys for Plaintiff  
11 INTUITIVE SURGICAL, INC.

12 UNITED STATES DISTRICT COURT  
13  
14 NORTHERN DISTRICT OF CALIFORNIA  
15  
16 SAN FRANCISCO DIVISION

17 ILLINOIS UNION INSURANCE  
18 COMPANY, an Illinois corporation,

19 Plaintiff,

20 v.

21 INTUITIVE SURGICAL, INC., a Delaware  
22 corporation,

23 Defendant.

24 INTUITIVE SURGICAL, INC., a Delaware  
25 corporation,

26 Plaintiff,

27 v.

28 ILLINOIS UNION INSURANCE  
COMPANY, an Illinois corporation;  
NAVIGATORS SPECIALTY INSURANCE  
CO., a New York corporation,

Defendants.

CASE NO.: 3:13-cv-04863-JST  
CASE NO.: 3:15-cv-04834-JST

**JOINT STIPULATION TO EXTEND  
DEADLINE FOR INTUITIVE'S  
OPPOSITION TO ILLINOIS UNION'S  
MOTION TO BIFURCATE AND  
MOTION TO REVERSE ORDER OF  
PROOF; AND**

**[PROPOSED] ORDER**

Trial Date: June 19, 2017

Hearing Date: May 26, 2017

Time: 2:00 p.m.

Location: Courtroom 2, 4<sup>th</sup> Floor  
Oakland Courthouse

1 Intuitive Surgical, Inc. (“Intuitive”) and Illinois Union Insurance Company (“Illinois Union”)  
2 respectfully jointly stipulate, pursuant to Civil Local Rules 6-1(b), 6-2, and 7-12, to extend the  
3 current deadline for Intuitive’s oppositions to Illinois Union’s Motion to Bifurcate and Motion to  
4 Reverse the Order of Proofs until May 9, 2017.

5 WHEREAS, the parties have a pretrial conference scheduled for May 26, 2017;

6 WHEREAS, Illinois Union filed two pretrial motions on April 21, 2017 (ECF No. 212  
7 (Illinois Union Insurance Company’s Notice of Motion and Motion to Bifurcate Extra-Contractual  
8 from Contractual Claims); ECF No. 213 (Illinois Union Insurance Company’s Notice of Motion and  
9 Motion to Reverse the Order of Proofs)) to be heard on May 26, 2017, in order to comport with the  
10 Northern District of California’s 35-day briefing schedule (*see* Local Rule 7-2);

11 WHEREAS, under that briefing schedule, Intuitive’s oppositions to both motions are due on  
12 May 5, 2017, and Illinois Union’s replies to Intuitive’s oppositions are due on May 12, 2017;

13 WHEREAS, Illinois Union’s motions are, in part, premised on the idea that Illinois Union  
14 would be stipulating to certain elements of Intuitive’s breach of contract claims;

15 WHEREAS, Illinois Union has yet to provide such a draft stipulation to Intuitive,

16 WHEREAS, Illinois Union has indicated that it will provide such a draft stipulation to  
17 Intuitive by Friday, May 5, 2017;

18 WHEREAS, in order to potentially streamline the arguments in Illinois Union’s pretrial  
19 motions, the parties agree that it will be beneficial to wait until Illinois Union provides Intuitive with  
20 a draft stipulation to consider before Intuitive opposes Illinois Union’s motions;

21 WHEREAS, Illinois Union agrees to meet the original deadline for its replies to Intuitive’s  
22 oppositions (May 12, 2017);

23 NOW THEREFORE, the parties, through the undersigned counsel, hereby stipulate with  
24 respect to the deadlines previously imposed in Case Nos. 3:13-cv-04863-JST as follows:

- 25 • That the current deadline for Intuitive’s oppositions to Illinois Union’s Motion to  
26 Bifurcate and Motion to Reverse the Order of Proofs be extended until May 9, 2017.

27 The parties’ proposed time modifications would impact the deadlines in Case Nos. 3:13-cv-  
28 04863-JST as follows:

Event	Current Schedule	New Schedule
Intuitive's Oppositions to Illinois Union's Motion to Bifurcate and Motion to Reverse the Order of Proofs	5/5/2017	5/9/2017
Illinois Union's Replies to Intuitive's Oppositions to Illinois Union's Motion to Bifurcate and Motion to Reverse the Order of Proofs	5/12/2017	No change
Hearing on Illinois Union's Motion to Bifurcate and Motion to Reverse the Order of Proofs	5/26/2017	No change

DATED: May 4, 2017

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP

By: /s/ Allen Ruby  
Attorneys for Plaintiff/Defendant  
INTUITIVE SURGICAL, INC.

DATED: May 4, 2017

COZEN O'CONNER

By: /s/ Charles Wheeler  
Attorneys for Defendant/Plaintiff  
ILLINOIS UNION INSURANCE COMPANY

Pursuant to Civil Local Rule 5-1(i), the filer attests that concurrence in the filing of this document has been obtained from the signatories above.

/s/ Allen Ruby

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

~~PROPOSED~~ ORDER

PURSUANT TO THE FOREGOING STIPULATION OF THE PARTIES, IT IS  
ORDERED THAT:

The deadline for Intuitive Surgical Inc's oppositions to Illinois Union's Insurance Company's ("Illinois Union") Motion to Bifurcate Extra-Contractual from Contractual Claims (ECF No. 212) and Illinois Union's Motion to Reverse the Order of Proofs (ECF No. 213) is extended to May 9, 2017. The deadlines for Illinois Union's replies to both motions remain the same.

DATED: May 4, 2017

By: \_\_\_\_\_

  
The Honorable Jon S. Tigar  
United States District Court Judge